

ENTERED

October 18, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

APRIL M. FLORES,

Plaintiff,

VS.

THE CITY OF SAN BENITO, TEXAS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:20-CV-169

ORDER

Plaintiff April M. Flores, as mother of Ricardo Trevino III and as the representative of his estate, filed this lawsuit after police officers fatally shot Trevino following a vehicular chase. Flores sued numerous law enforcement officers for unlawful seizure and use of excessive force, and the City of San Benito and Cameron County for failure to train and supervise the officers.

In August 2021, Defendant Michael Galvan moved for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c), arguing that Flores has not stated a claim to relief against him as to the unlawful seizure/false arrest claim. (Motion, Doc. 66) Flores timely filed a Response. (Doc. 67)

On September 27, 2021, the Magistrate Judge issued a Report and Recommendation, recommending that the Motion be granted in part and denied in part. (Doc. 72) Specifically, the Report and Recommendation concludes that the Motion should be granted as to the claim of unlawful seizure/false arrest, the claim for tort damages pursuant to the Texas Constitution, and any claims for punitive damages under Texas law; but denied as to any claims for punitive damages made pursuant to 42 U.S.C. § 1983. No party filed objections. The Court finds no plain error in the Report and Recommendation.

The Court **ADOPTS** the Report and Recommendation (Doc. 72). Accordingly, it is:

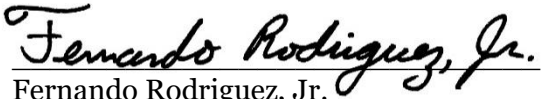
ORDERED that Defendant Michael Galvan's Rule 12(c) Motion to Dismiss (Doc. 66) is
GRANTED IN PART AND DENIED IN PART;

ORDERED that all of Plaintiff April M. Flores's claims against Defendant Michael Galvan for unlawful seizure/false arrest, for torts under the Texas Constitution, and for punitive damages under Texas law are **DISMISSED WITH PREJUDICE**; and

ORDERED that Defendant Michael Galvan's Rule 12(c) Motion to Dismiss (Doc. 66) is **DENIED** as to Plaintiff April M. Flores's claims for punitive damages under Section 1983.

All other relief requested in Defendant Michael Galvan's Rule 12(c) Motion to Dismiss (Doc. 66) not expressly granted in this Order or in previous Orders of the Court is **DENIED**.

Signed on October 18, 2021.


Fernando Rodriguez, Jr.
United States District Judge